United States Patent and Trademark Office

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/941,148	08/27/2001	Thomas Huber	577172000400	4598

43997 7590 04/25/2007		EXAMINER
OPTV/MOFO		SALCE, JASON P
C/O MORRISON & FOERSTER LLP		
1650 TYSONS BOULEVARD, SUITE 300	ART UNIT	PAPER NUMBER
MCLEAN, VA 22102	2623	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/25/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

PTOL-90A (Rev. 10/06)

		Application No.	Applicant(s)
		09/941,148	HUBER ET AL.
Office Action Summary		Examiner	Art Unit	
		Jason P. Salce	2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>02 February 2007</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *10-15,27-34,44-49,62,64-79 and 81-90* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *10-15,27-34,44-49,62,64-79 and 81-90* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

U.S. Patent and Trademark Office

DETAILED ACTION

Response to Arguments

1.   Applicant's arguments filed 2/2/2007 have been fully considered but they are not persuasive.

Applicant argues that Merjanian does not teach or suggest a system with an identification input device within the remote control that verifies a user's identify in the personal remote control, and a communication link that transmits the verified identity to the set-top box. Applicant states that claim 44 states a distinction between recognition data and identification data, received by the personal remote control unit and sent to the set-top box. Applicant further states that in claim 44, the personal remote control unit first receives recognition data from a user, the verifies that recognition data, providing identification data, which is then sent to the set top box.

The examiner disagrees that Merjanian fails to teach these limitations and notes that Applicant states that claim 44 recites a distinction between recognition data and identification data. The examiner disagrees and notes that the claims do not recite identification data any where in the claim, and even if such a distinction was made, Merjanian still teaches such a distinction.

The examiner notes Column 11, Lines 30-34, which states that recognition data is received. Applicant argues that this only states that recognition data is received and no distinction between the recognition data and the identification data is made. The examiner notes that this passage clearly states that after the recognition data is received the <u>remote control determines when it has an adequate fingerprint image by</u>

locally performing **processing, analysis, or both**, and then transmits the image to the receiving device. Therefore, Merjanian clearly teaches not only a distinction between the recognition data received and the resultant/processed/analyzed recognition data (which can be interpreted as identification data), but also teaches the claim limitations (absent of identification data) where an identification input device within said personalized remote control that verifies said identity of said current user (by processing, analysis, or both) based on biometric information and transmits the verified identity to the user.

The examiner is aware that Applicant's intention is for the remote control to determine which user is using the remote control and transmit that user's identification (opposite of the fingerprint data that is analyzed by the remote control) directly to the set-top box, however, the claims are broad and do not make this distinction.

Since all remaining claims have been amended to further support the attempted distinction, see the examiner's rebuttal above. In further regards to the 103(a) combination using Merjanian in view of Block (and all other 103(a) combinations using various references), Applicant simply restates the claim limitations that the examiner previously used Block (and the other prior art references applied) to reject, therefore, see the Office Action below.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2.   Claims 10, 12-13, 44, 46-47 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Merjanian (U.S. Patent No. 5,920,642).

Referring to claim 10, Merjanian discloses controlling a video segment and data utilizing a remote control device that interacts with a set-top box to provide enhanced interactive content based upon an identify of a current user of said personal remote control (see Column 11, Line 17 through Column 12, Line 56 for controlling video programs and services/data that the viewer may access on a set-top box using a remote control's biometric authentication process).

Merjanian discloses that the remote control comprises receiving biometric recognition data of said current user with an interface in said personal remote control unit (see Column 11, Lines 30-31 for the remote control reading the user's fingerprint, therefore recognizing the current user using biometric identification).

Merjanian also discloses verifying an identification of said current user based upon the biometric recognition data by said personal remote control unit (see Column 11, Lines 31-33 for the remote control determining/verifying when it has an adequate fingerprint image of the viewer by locally performing processing, analysis or both).

Merjanian also discloses communicating said verified identification of said current user from said personal remote control unit to said set-top box (see Column 11, Lines 33-34 for transmitting the image of the verified fingerprint to the receiving device).

Merjanian also discloses selecting preference and profile data for said current user in said set-top box based on the identification received from said personal remote control unit (see Column 11, Lines 47-58 for restoring configurations (profile data) and a favorites channel list (preferences) based on the biometric identification of the user).

Merjanian also discloses assigning the preference and profile data for said current user to a current user database within said set top box (see Column 11, Lines 58-65 for teaching that the preference and profile (stored in the set top box) data can be restored upon identification of the user, therefore the preference and profile data is assigned to a current user database upon identification of the user).

Merjanian also discloses controlling display of said video segment based on said preference and profile data (see Column 11, Lines 47-58 for controlling display of a video segment by either restricting access to the video segment or adjust the video settings of the video segment).

Referring to claim 12, Merjanian discloses that the information transmitted from the set-top box is a combined identification and command sequence (see Column 11, Lines 18-24 for transmitting data from the remote controller to the set top box, which is provided for both comparison (authorization) and identification).

Referring to claim 13, Merjanian discloses that said biometric identification is based on an intellectual attribute of said current user (see Column 11, Lines 21-23 for

passing a PIN to the set-top box, wherein the PIN represents an intellectual attribute of

a user).

Referring to claims 44 and 46-47, see the rejection of claims 10 and 12-13,

respectively.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

3.   Claims 11, 15, 27-29, 31, 45, 49, 62, 64-65, 67, 71-73, 75, 79-82 and 84 are

rejected under 35 U.S.C. 103(a) as being unpatentable over Merjanian (U.S. Patent No.

5,920,642) in view of Block et al. (U.S. Patent No. 6,675,384).

Referring to claim 11, Merjanian disclose all of the limitations in claim 10, but fails

to disclose controlling display of said video segment being *based on comparing one or*

more tags placed is said video segment that indicate content of said video segment to

said preference and profile data within said current user database.

Block discloses controlling display of a video segment based on comparing one

or more tags placed in said video segment (TIL at Column 15, Lines 27-36) that indicate

content of said video segment (see Column 5, Lines 42-67) to said preference and

profile data (see Column 12, Line 44 through Column 13, Line 22) within said current

user database (LIL at Column 15, Lines 27-36).

At the time the invention was made, it would have been obvious to a person of

ordinary skill in the art, to modify the user and program identification system, as taught

by Merjanian, using the tags placed in the video content that are compared to

preference and profile data in order to control the display of the video content, as taught

by Block, for the purpose of allowing a user to make informed choices, allowing

producers and distributors to gain having a greater opportunity to provide what

customers want, and allowing society to gain maintaining freedom of choice and

supporting informed decisions (see Column 2, Lines 45-49 of Block).

Referring to claim 15, see the rejection of claim 11 and further note program

labeling station 30 in Figure 1, which pretags the video segments prior to transmission.

Referring to claim 27, Merjanian discloses controlling a video segment and data

utilizing a remote control device that interacts with a set-top box to provide enhanced

interactive content based upon an identify of a current user of said personal remote

control (see Column 11, Line 17 through Column 12, Line 56 for controlling video

programs and services/data that the viewer may access on a set-top box using a

remote control's biometric authentication process).

Merjanian discloses that the remote control comprises receiving biometric

recognition data of said current user with an interface in said personal remote control

unit using biometric identification (see Column 11, Lines 30-31 for the remote control

reading the user's fingerprint, therefore recognizing the current user using biometric identification).

Merjanian also discloses verifying an identification of said current user based upon the biometric recognition data by said personal remote control unit (see Column 11, Lines 31-33 for the remote control determining/verifying when it has an adequate fingerprint image of the viewer by locally performing processing, analysis or both).

Merjanian also discloses communicating said verified identification of said current user from said personal remote control unit to said set-top box (see Column 11, Lines 33-34 for transmitting the image of the verified fingerprint to the receiving device).

Merjanian also discloses selecting preference and profile data for said current user in said set-top box based on the identification received from the personal remote control unit (see Column 11, Lines 47-58 for restoring configurations (profile data) and a favorites channel list (preferences) based on the biometric identification of the user).

Merjanian also discloses assigning the preference and profile data for said current user to a current user database within said set top box (see Column 11, Lines 58-65 for teaching that the preference and profile (stored in the set top box) data can be restored upon identification of the user, therefore the preference and profile data is assigned to a current user database upon identification of the user).

Merjanian also discloses controlling display of said video segment based on said preference and profile data (see Column 11, Lines 47-58 for controlling display of a video segment by either restricting access to the video segment or adjust the video settings of the video segment).

Merjanian fails to disclose controlling display of said video segment being _based_

on comparing one or more tags placed is said video segment that indicate content of

said video segment to said preference and profile data within said current user

database.

Block discloses controlling display of a video segment based on comparing one

or more tags placed in said video segment (TIL at Column 15, Lines 27-36) that indicate

content of said video segment (see Column 5, Lines 42-67) to said preference and

profile data (see Column 12, Line 44 through Column 13, Line 22) within said current

user database (LIL at Column 15, Lines 27-36).

At the time the invention was made, it would have been obvious to a person of

ordinary skill in the art, to modify the user and program identification system, as taught

by Merjanian, using the tags placed in the video content that are compared to

preference and profile data in order to control the display of the video content, as taught

by Block, for the purpose of allowing a user to make informed choices, allowing

producers and distributors to gain having a greater opportunity to provide what

customers want, and allowing society to gain maintaining freedom of choice and

supporting informed decisions (see Column 2, Lines 45-49 of Block).

Claim 28 corresponds to claim 27, where Merjanian discloses that the

information transmitted from the set-top box is a combined identification and command

sequence (see Column 11, Lines 18-24 for transmitting data from the remote controller

to the set top box, which is provided for both comparison (authorization) and

identification).

Claim 29 corresponds to claim 27, where Merjanian discloses that said biometric

identification is based on an intellectual attribute of said current user (see Column 11,

Lines 21-23 for passing a PIN to the set-top box, wherein the PIN represents an

intellectual attribute of a user).

Referring to claim 31, see the rejection of claim 11 and further note program

labeling station 30 in Figure 1, which pretags the video segments prior to transmission.

Referring to claims 45 and 49, see the rejection of claims 11 and 15,

respectively.

Referring to claims 62, 64-65 and 67, see the rejection of claims 27-29 and 31,

respectively.

Referring to claims 71-73 and 75, see the rejection of claims 27-29 and 31,

respectively.

Referring to claims 79, 81-82 and 84, see the rejection of claims 27, 11, 28-29

and 31, respectively.

4.   Claims 14 and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Merjanian (U.S. Patent No. 5,920,642) in further view of Rothmuller et al. (U.S.

Patent No. 5,635,989).

Referring to claim 14, Merjanian disclose all of the limitations in claim 10, as well

as accessing a favorite channel list (see Column 11, Lines 60-65), but fails to teach how

the favorite channel list was acquired, therefore failing to teach empirically deriving said

profile data from the usage patterns of said remote control device by said current user.

Rothmuller discloses empirically deriving profile data from the usage patterns of

a remote control device (program selections made) by a current user (see Column 5,

Line 59 through Column 6, Line 39 and Figure 4).

At the time the invention was made, it would have been obvious to a person of

ordinary skill in the art, to modify the user and program identification system, as taught

by Merjanian, using the profile deriving method, as taught by Rothmuller for the purpose

of allowing a user to readily determine and identify when a desired program will be

broadcast without the need for performing an extensive search of the entire channel

guide for current and future events (see Column 2, Lines 47-51 of Rothmuller).

Referring to claim 48, see the rejection of claim 14.

5.   Claims 30, 66, 74, 83 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Merjanian (U.S. Patent No. 5,920,642) in view of Block et al. (U.S. Patent No.

6,675,384) in further view of Rothmuller et al. (U.S. Patent No. 5,635,989).

Referring to claim 30, Merjanian and Block discloses all of the limitations in claim

27, as well as Merjanian disclosing access to a favorite channel list (see Column 11,

Lines 60-65), but fail to teach how the favorite channel list was acquired, therefore

failing to teach empirically deriving said profile data from the usage patterns of said

remote control device by said current user.

Rothmuller discloses empirically deriving profile data from the usage patterns of

a remote control device (program selections made) by a current user (see Column 5,

Line 59 through Column 6, Line 39 and Figure 4).

At the time the invention was made, it would have been obvious to a person of

ordinary skill in the art, to modify the user and program identification system, as taught

by Merjanian, using the profile deriving method, as taught by Rothmuller for the purpose

of allowing a user to readily determine and identify when a desired program will be

broadcast without the need for performing an extensive search of the entire channel

guide for current and future events (see Column 2, Lines 47-51 of Rothmuller).

Referring to claim 66, see the rejection of claim 30.

Referring to claim 74, see the rejection of claim 30.

Referring to claim 83, see the rejection of claim 30.

6.   Claims 32-34, 68-70, 76-78 and 85-87 are rejected under 35 U.S.C. 103(a) as

being unpatentable over Merjanian (U.S. Patent No. 5,920,642) in view of Block et al.

(U.S. Patent No. 6,675,384) in further view of Sumita et al. (U.S. Patent No. 6,581,207).

Referring to claims 32-34, Merjanian and Block disclose all of the limitations in claim 27, but fail to teach that the tags are created in real time by video recognition techniques utilizing keywords, key images and key sounds.

Sumita discloses an information-filtering unit 2 in Figure 1, which contains a content analyzing section 14 in Figure 12 that contains EPG processing section 142 and video/sound processing section 143 in Figure 3 (also note Column 5, Lines 31-49). Sumita teaches that the EPG processing section 142 extracts keywords from words extracted by the morphemic analysis (see Column 6, Lines 34-36), therefore teaching a video recognition technique (searching EPG information of the video programs) utilizing keywords. Sumita further teaches that the video recognition techniques include utilizing key images (see Column 6, Line 65 through Column 7, Line 4) and utilizing key sounds (see Column 7, Lines 5-12).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the tag insertion process, as taught by Merjanian and Block, using the video recognition techniques, as taught by Sumita, for the purpose of allowing users to make use of content-based processing with no need of paying the computation-related cost (see Column 1, Lines 56-58).

Referring to claims 68-70, see the rejection of claims 32-34, respectively.

Referring to claims 76-78, see the rejection of claims 32-34, respectively.

Referring to claims 85-87, see the rejection of claims 32-34, respectively.

7.   Claims 88-89 are rejected under 35 U.S.C. 103(a) as being unpatentable over
Merjanian (U.S. Patent No. 5,920,642) in view of Sumita et al. (U.S. Patent No.
6,581,207).

        Referring to claim 88, Merjanian discloses all of the limitations in claim 10, but
fails to teach that the biometric identification comprises voice recognition.

        Sumita discloses an information-filtering unit 2 in Figure 1, which contains a
content analyzing section 14 in Figure 12 that contains EPG processing section 142 and
video/sound processing section 143 in Figure 3 (also note Column 5, Lines 31-49).
Sumita further teaches that the video/sound processing section 143 comprises voice
recognition (see Column 7, Lines 5-12).

        At the time the invention was made, it would have been obvious to a person of
ordinary skill in the art, to modify the tag insertion process, as taught by Merjanian,
using the video recognition technique, as taught by Sumita, for the purpose of allowing
users to make use of content-based processing with no need of paying the
computation-related cost (see Column 1, Lines 56-58).

        Referring to claim 89, see the rejection of claim 88.

8.   Claim 90 is rejected under 35 U.S.C. 103(a) as being unpatentable over
Merjanian (U.S. Patent No. 5,920,642) in further view of Block et al. (U.S. Patent No.
6,675,384) in further view of Menard et al. (U.S. Patent No. 6,061,056).

        Referring to claim 90, Merjanian and Block disclose the limitations of claim 11,
but fail to teach the limitations of claim 90.

Menard discloses storing video segments on video storage devices 20 in Figures 1 and 2 and Column 5, Lines 7-8.

Menand also discloses generating a video pointer table comprising an address at which the video segment is located in the video storage device (see Column 5, Lines 8-10 and Column 6, Lines 44-46 for using synchronizing tags that index the video and audio clips, therefore creating a video pointer table comprising an address (tags) at which the video located in the video storage device).

Menand also discloses storing in the video pointer table the results of the comparison of the one or more tags and the preference and profile data (see Column 6, Lines 44-46 for indexing the video, audio and closed caption data in the storage device and when a user provides a query in order to find a video clip (see Column 6, Lines 47-51), the query data is compared with the indexed information in the storage device, therefore the video point table (index of video, audio and closed captioning) stores the results of the comparison when a query is performed by the user), wherein the display of the video segment is based on the results of the comparison (see again Column 6, Lines 47-51)).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the personalized video system, as taught by Nickum, Merjanian and Block, using the video pointer table storage and query system, as taught by Menard, for the purpose of detecting content of particular interest to individual viewers (see Column 1, Line 9 of Menard).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Jason P. Salce whose telephone number is (571) 272-

7301. The examiner can normally be reached on M-F 9am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, John Miller can be reached on (571) 272-7353. The fax phone number for

the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jason P Salce
Primary Examiner
Art Unit 2623

April 24, 2007

JASON SALCE
PRIMARY PATENT EXAMINER